

AMENDED IN ASSEMBLY APRIL 15, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 2374

Introduced by Assembly Member Bates

February 16, 1996

An act to ~~amend Section 14087.35 of the Welfare and Institutions Code, relating to Medi-Cal~~ *add Chapter 5 (commencing with Section 101850) to Part 4 of Division 101 of the Health and Safety Code, relating to public health.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2374, as amended, Bates. ~~Medi-Cal:~~ Alameda County: *hospital authority.*

~~Existing law provides for the Medi-Cal program, administered by the State Department of Health Services, under which qualified low-income persons are provided with health care services.~~

Existing law permits the County of Alameda to establish a health authority as a means of establishing the local initiative component of the state-mandated two-plan managed care model for the delivery of Medi-Cal services.

This bill would ~~make technical nonsubstantive changes to these provisions~~ *authorize the Board of Supervisors of the County of Alameda to establish, by ordinance, a hospital authority to manage, administer, or control the Alameda County Medical Center, as deemed appropriate by the board. The bill would set forth certain rights and duties, powers, and*

requirements of a hospital authority established under its provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

~~SECTION 1. — Section 14087.35 of the Welfare and~~

SECTION 1. Chapter 5 (commencing with Section 101850) is added to Part 4 of Division 101 of the Health and Safety Code, to read:

CHAPTER 5. ALAMEDA COUNTY MEDICAL CENTER
HOSPITAL AUTHORITY

101850. The Legislature finds and declares the following:

(a) (1) Due to the challenges facing the Alameda County Medical Center arising from changes in the public and private health industries, the Alameda County Board of Supervisors has determined that a transfer of governance of the Alameda County Medical Center to an independent governing body is needed to improve the efficiency, effectiveness, and economy of the community health services provided at the medical center. The board of supervisors has further determined that the creation of an independent hospital authority strictly and exclusively dedicated to the management, administration, and control of the medical center is the best way to fulfill its commitment to the medically indigent, special needs, and general populations of Alameda County. To accomplish this, it is necessary that the board of supervisors be given authority to create a hospital authority. Because there is no general law under which this authority could be formed, the adoption of a special act and the formation of a special authority is required.

(2) The following definitions shall apply for purposes of this section:

(A) "The county" means the County of Alameda.

1 (B) “Governing board” means the governing body of
2 the health authority.

3 (C) “Health authority” means the separate public
4 agency established by the Board of Supervisors of
5 Alameda County to manage, administer, or control the
6 Alameda County Medical Center, as deemed appropriate
7 by the board of supervisors.

8 (D) “Medical center” means the Alameda County
9 Medical Center.

10 (b) The board of supervisors of the county may, by
11 ordinance, establish a hospital authority separate and
12 apart from the county for the purpose of effecting a
13 transfer of the management, administration, or control of
14 the medical center as deemed appropriate by the board
15 of supervisors. A hospital authority established pursuant
16 to this chapter shall be strictly and exclusively dedicated
17 to the management, administration, and control of the
18 medical center within in parameters set forth in this
19 chapter, and in the ordinance, bylaws, and contracts
20 adopted by the board of supervisors which shall not be in
21 conflict with this chapter.

22 (c) A hospital authority established pursuant to this
23 chapter shall be governed by a board that is appointed,
24 both initially and continually, by the Board of Supervisors
25 of the County of Alameda. This hospital authority
26 governing board shall reflect both the expertise necessary
27 to maximize the quality and scope of care at the medical
28 center in a fiscally responsible manner and the diverse
29 interest that the medical center serves. The enabling
30 ordinance shall specify the membership of the hospital
31 authority governing board, the qualifications for
32 individual members, the manner of appointment,
33 selection, or removal of governing board members, their
34 terms of office, and all other matters that the board of
35 supervisors deems necessary or convenient for the
36 conduct of the hospital authority’s activities. The
37 enabling ordinance shall provide that persons who are
38 current providers of care or who are employed by a
39 current provider of care doing business in the county and

1 persons who are not residents of the county are not
2 eligible for service on the governing board.

3 (d) The mission of the hospital authority shall be the
4 management, administration, or other control, as
5 determined by the board of supervisors, of the group of
6 public hospitals, clinics, and programs that comprise the
7 medical center, in a manner that ensures appropriate,
8 quality, and cost effective medical care for medically
9 indigent residents of the county as required of counties by
10 Section 17000 of the Welfare and Institutions Code, and,
11 to the extent feasible, the uninsured, the underinsured,
12 and other populations in Alameda County. The mission
13 shall be pursued, to the extent feasible, through primary,
14 secondary, and tertiary care, inpatient and outpatient
15 services, health education, medical research, and
16 promotional health programs.

17 (e) The board of supervisors shall adopt bylaws for the
18 medical center that sets forth those matters, related to the
19 operation of the medical center by the hospital authority,
20 that the board of supervisors deems necessary and
21 appropriate. The bylaws shall become operative upon
22 approval by a majority vote of the board of supervisors.
23 Any changes or amendments to the bylaws shall be by
24 majority vote of the board of supervisors.

25 (f) The hospital authority created and appointed
26 pursuant to this section is a duly constituted governing
27 body within the meaning of Section 1250 and Section
28 70035 of Title 22 of the California Code of Regulations as
29 currently written or subsequently amended.

30 (g) Unless otherwise provided by the board of
31 supervisors by way of resolution, the hospital authority is
32 empowered, or the board of supervisors is empowered on
33 behalf of the hospital authority, to apply as a public
34 agency for one or more licenses for the provision of health
35 care pursuant to statutes and regulations governing
36 licensing as currently written or subsequently amended.

37 (h) In the event of a change of license ownership, the
38 governing body of the hospital authority shall comply
39 with the obligations of governing bodies of general acute
40 care hospitals generally as set forth in Section 70701 of

1 *Title 22 of the California Code of Regulations, as currently*
2 *written or subsequently amended, as well as the terms*
3 *and conditions of the license. The hospital authority shall*
4 *be the responsible party with respect to compliance with*
5 *these obligations, terms, and conditions.*

6 (i) (1) Any transfer of the administration,
7 management, or control of the medical center, whether
8 or not the transfer includes the surrendering by the
9 county of the existing general acute care hospital license
10 and corresponding application for a change of ownership
11 of the license, shall not affect the eligibility of the county,
12 or in the case of a change of license ownership, the
13 hospital authority, to do any of the following:

14 (A) Participate in, and receive allocations pursuant to,
15 the California Healthcare for the Indigent Program
16 (CHIP).

17 (B) Receive supplemental reimbursements from the
18 Emergency Services and Supplemental Payments Fund
19 created pursuant to Section 14085.6 of the Welfare and
20 Institutions Code.

21 (C) Receive appropriations from the Medi-Cal
22 Inpatient Payment Adjustment Fund without relieving
23 the county of its obligation to make intergovernmental
24 transfer payments related to the Medi-Cal Inpatient
25 Payment Adjustment Fund pursuant to Section 14163 of
26 the Welfare and Institutions Code.

27 (D) Receive Medi-Cal capital supplements pursuant
28 to Section 14085.5 of the Welfare and Institutions Code.

29 (2) Any transfer described in paragraph (1) shall not
30 otherwise disqualify the county, or in the case of a change
31 in license ownership, the hospital authority, from
32 participating in any of the following:

33 (A) Other funding sources either specific to county
34 hospitals or county ambulatory care clinics or for which
35 there are special provisions specific to county hospitals or
36 to county ambulatory care clinics.

37 (B) Funding programs in which the county, on behalf
38 of the medical center and the Alameda County Health
39 Care Services Agency, had participated prior to the
40 creation of the hospital authority, or would otherwise be

1 *qualified to participate in had the hospital authority not*
2 *been created, and administration, management, or*
3 *control not been transferred by the county to the hospital*
4 *authority, pursuant to this chapter.*

5 *(j) A hospital authority created pursuant to this*
6 *chapter shall be a public agency and government entity*
7 *separate and apart from the county, and shall not be*
8 *considered to be an agency, division, department, or*
9 *instrumentality of the county. The hospital authority shall*
10 *not be governed by, nor be subject to, the charter of the*
11 *county and shall not be subject to policies or operational*
12 *rules of the county, including, but not limited to, those*
13 *relating to personnel and procurement. As a legal entity*
14 *separate and apart from the county, the hospital authority*
15 *shall file the statement required by Section 53051 of the*
16 *Government Code.*

17 *(k) (1) Any contract executed by and between the*
18 *county and the hospital authority shall provide that*
19 *liabilities or obligations of the hospital authority with*
20 *respect to its activities pursuant to the contract shall be*
21 *the liabilities or obligations of the hospital authority, and*
22 *shall not become the liabilities or obligations of the*
23 *county.*

24 *(2) Any liabilities or obligations of the hospital*
25 *authority with respect to the liquidation or disposition of*
26 *the hospital authority's assets upon termination of the*
27 *hospital authority shall not become the liabilities or*
28 *obligations of the county.*

29 *(3) Any obligation of the hospital authority, statutory,*
30 *contractual, or otherwise, shall be the obligation solely of*
31 *the hospital authority and shall not be the obligation of*
32 *the county or the state.*

33 *(l) (1) Notwithstanding the foregoing, any transfer of*
34 *the administration, management, or assets of the medical*
35 *center, whether or not accompanied by a change in*
36 *licensing, shall not relieve the county of the ultimate*
37 *responsibility for indigent care pursuant to Section 17000*
38 *of the Welfare and Institution Code.*

39 *(2) Any contract executed by and between the county*
40 *and the hospital authority shall provide for the*

1 *indemnification of the county by the hospital authority*
2 *for liabilities as specifically set forth in the contract.*

3 *(3) Indemnification by the hospital authority shall not*
4 *be construed as divesting the county from its ultimate*
5 *responsibility for compliance with Section 17000 of the*
6 *Welfare and Institutions Code.*

7 *(m) Notwithstanding the provisions of this section*
8 *relating to the obligations and liabilities of the hospital*
9 *authority, a transfer of control or ownership of the*
10 *medical center shall confer onto the hospital authority all*
11 *the rights and duties set forth in state law with respect to*
12 *hospitals owned or operated by a county.*

13 *(n) (1) A transfer of the maintenance, operation, and*
14 *management or ownership of the medical center to the*
15 *hospital authority shall comply with the provisions of*
16 *Section 14000.2 of the Welfare and Institutions Code, in*
17 *that the transfer shall be accompanied by a finding that*
18 *the community services provided by the medical center*
19 *could be more efficiently, effectively, or economically*
20 *provided by the hospital authority than by the county.*

21 *(2) A transfer of control or ownership to the hospital*
22 *authority may be made with or without the payment of*
23 *a purchase price by the hospital authority and otherwise*
24 *upon the terms and conditions that the parties may*
25 *mutually agree, which terms and conditions shall include*
26 *those found necessary by the board of supervisors to*
27 *ensure that the transfer will constitute an ongoing*
28 *material benefit to the county and its residents.*

29 *(3) A transfer of the maintenance, operation, and*
30 *management to the hospital authority shall not be*
31 *construed as empowering the hospital authority to*
32 *transfer any ownership interest of the county in the*
33 *medical center except as otherwise approved by the*
34 *board of supervisors.*

35 *(o) The board of supervisors shall retain control over*
36 *the use of the medical center physical plant and facilities*
37 *except as otherwise specifically provided for in lawful*
38 *agreements entered into by the board of supervisors. Any*
39 *lease agreement or other agreement between the county*
40 *and the hospital authority shall provide that county*

1 premises shall not be sublet without the approval of the
2 board of supervisors.

3 (p) The statutory authority of a board of supervisors to
4 prescribe rules that authorize a county hospital to
5 integrate its services with those of other hospitals into a
6 system of community service that offers free choice of
7 hospitals to those requiring hospital care, as set forth in
8 Section 14000.2 of the Welfare and Institutions Code, shall
9 apply to the hospital authority upon a transfer of control
10 or ownership of the medical center by the county to the
11 hospital authority.

12 (q) The hospital authority shall have the power to
13 acquire and possess real or personal property and may
14 dispose of real or personal property other than that
15 owned by the county, as may be necessary for the
16 performance of its functions. The hospital authority shall
17 have the power to sue or be sued, to employ personnel,
18 and to contract for services required to meet its
19 obligations.

20 (r) Any agreement between the county and the
21 hospital authority shall provide that all existing services
22 provided by the medical center continue to be provided
23 to the county through the medical center subject to the
24 availability of funds and policy of the county.

25 (s) A hospital authority to which the administration,
26 management, or control of the medical center is
27 transferred shall be a “district” within the meaning set
28 forth in the County Employees Retirement Law of 1937
29 (Chapter 3 (commencing with Section 31450) of Part 3 of
30 Division 4 of Title 3 of the Government Code). Therefore,
31 employees of a hospital authority are eligible to
32 participate in the County Employees Retirement System
33 to the extent permitted by law.

34 (t) Members of the governing board of the hospital
35 authority shall not be vicariously liable for injuries caused
36 by the act or omission of the hospital authority or advisory
37 body to the extent that protection applies to members of
38 governing boards of local public entities generally under
39 Section 820.9 of the Government Code.



1 (u) *The hospital authority shall be a public agency*
2 *subject to the Myers-Milias-Brown Act (Chapter 10*
3 *(commencing with Section 3500) of Division 4 of Title 1*
4 *of the Government Code).*

5 (v) *Any transfer of functions from county*
6 *classifications to a hospital authority established pursuant*
7 *to this section shall result in the recognition by the*
8 *hospital authority of the employee organization that*
9 *represented the classifications performing those*
10 *functions at the time of the transfer.*

11 (w) (1) *In exercising its powers to employ personnel,*
12 *as set forth in subdivision (p), the hospital authority shall*
13 *implement, and the board of supervisors shall adopt, a*
14 *personnel transition plan. The personnel transition plan*
15 *shall require all of the following:*

16 (A) *Ongoing communications to employees and*
17 *recognized employee organizations regarding the*
18 *impact of the transition on existing medical center*
19 *employees and classifications.*

20 (B) *Meeting and conferring on the issue of the*
21 *timeframe for which the transfer of personnel shall occur.*
22 *The timeframe shall be subject to modification by the*
23 *board of supervisors as appropriate, but in no event shall*
24 *it exceed one year from the effective date of transfer of*
25 *governance from the board of supervisors to the hospital*
26 *authority.*

27 (C) *Meeting and conferring on the issue of a specified*
28 *period of time during which employees of the county*
29 *impacted by the transfer of governance may elect to be*
30 *appointed to vacant positions with the Alameda County*
31 *Health Care Services Agency for which they have tenure.*

32 (D) *Meeting and conferring on the issue of a specified*
33 *period of time during which employees of the county*
34 *impacted by the transfer of governance may elect to be*
35 *considered for reinstatement into positions with the*
36 *county for which they are qualified and eligible.*

37 (E) *Meeting and conferring on the issue of*
38 *compensation for vacation leave and compensatory leave*
39 *accrued while employed with the county in a manner*
40 *that grants affected employees the option of either*

1 transferring balances or receiving compensation to the
2 degree permitted employees laid off from service with
3 the county.

4 (F) Meeting and conferring on the issue of a transfer
5 of sick leave accrued while employed with the county to
6 hospital authority employment.

7 (G) Meeting and conferring on the issue of the
8 recognition by the hospital authority of service with the
9 county in determining the rate at which vacation accrues.

10 (H) Meeting and conferring on the issue of the
11 possible preservation of seniority, pensions, health
12 benefits, and other applicable accrued benefits of
13 employees of the county impacted by the transfer of
14 governance.

15 (2) Nothing in this subdivision shall be construed as
16 prohibiting the hospital authority from determining the
17 number of employees, the number of full-time equivalent
18 positions, the job descriptions, and the nature and extent
19 of classified employment positions.

20 (3) Employees of the hospital authority are public
21 employees for purposes of Division 3.6 (commencing
22 with Section 810) of Title 1 of the Government Code
23 relating to claims and actions against public entities and
24 public employees.

25 (x) Any hospital authority to which this section applies
26 shall be bound by the terms of the memorandum of
27 understanding executed by and between the county and
28 health care and management employee organizations
29 that is in effect as of the date this legislation becomes
30 operative in the county. Upon the expiration of the
31 memorandum of understanding, the hospital authority
32 shall negotiate subsequent memoranda of understanding
33 with appropriate employee organizations.

34 (y) The hospital authority created pursuant to this
35 section may borrow from the county and the county may
36 lend the hospital authority funds or issue revenue
37 anticipation notes to obtain those funds necessary to
38 commence operations. The hospital authority, as a public
39 entity, may issue revenue bonds without voter approval.
40 The revenue bonds shall be exempt from income

1 *taxation. This section shall not preclude the county from*
2 *issuing revenue bonds to finance capital improvements of*
3 *the medical center facilities.*

4 *(z) The hospital authority shall be subject to state and*
5 *federal taxation laws that are applicable to counties*
6 *generally.*

7 *(aa) The hospital authority, the county, or both, may*
8 *engage in marketing, advertising, and promotion of the*
9 *medical and health care services made available to the*
10 *community at the medical center.*

11 *(bb) The hospital authority shall not be a “person”*
12 *subject to suit under the Cartwright Act (Chapter 2*
13 *(commencing with Section 16700) of Part 2 of Division 7*
14 *of the Business and Professions Code).*

15 *(cc) Notwithstanding any provision of law to the*
16 *contrary, a member of the governing board of the*
17 *hospital authority shall be deemed not to be interested in*
18 *a contract entered into by the hospital authority within*
19 *the meaning of Article 4 (commencing with Section*
20 *1090) of Chapter 1 of Division 4 of Title 1 of the*
21 *Government Code.*

22 *(dd) Notwithstanding Chapter 7 (commencing with*
23 *Section 87100) of Title 9 of the Government Code related*
24 *to conflicts of interest, a member of the governing board*
25 *of the hospital authority may participate fully in the*
26 *official decisions of the governing board, including, but*
27 *not limited to, decisions and policies affecting*
28 *reimbursements, budgetary and fiscal matters, allocation*
29 *of funds, and determination of rates.*

30 *(ee) Notwithstanding Article 4.7 (commencing with*
31 *Section 1125) of Chapter 1 of Division 4 of Title 1 of the*
32 *Government Code related to incompatible activities, no*
33 *member of the governing board, no officer, and no*
34 *member of the hospital authority administrative staff*
35 *shall be considered to be engaged in activities*
36 *inconsistent and incompatible with his or her duties as a*
37 *governing board member, officer, or staff person as a*
38 *result of employment or affiliation with the county unless*
39 *the employment or affiliation is with the medical center*
40 *or a health provider or facility operated by the county.*

1 (ff) (1) The hospital authority may use a
2 computerized management information system in
3 connection with the administration of the medical center.

4 (2) Information maintained in the management
5 information system or in other filing and records
6 maintenance systems that is confidential and protected
7 by law shall not be disclosed except as provided by law.

8 (3) The records of the hospital authority, whether
9 paper records, records maintained in the management
10 information system, or records in any other form, that
11 relate to trade secrets or to payment rates or the
12 determination thereof, or which relate to contract
13 negotiations with providers of health care, shall not be
14 subject to disclosure pursuant to the California Public
15 Records Act (Chapter 5 (commencing with Section 6250)
16 of Division 7 of Title 1 of the Government Code). The
17 transmission of the records, or the information contained
18 therein in an alternative form, to the board of supervisors
19 shall not constitute a waiver of exemption from
20 disclosure, and the records and information once
21 transmitted shall be subject to this same exemption. The
22 information, if compelled pursuant to an order of a court
23 of competent jurisdiction or administrative body in a
24 manner permitted by law, shall be limited to in-camera
25 review, and shall not be shared with the parties to the
26 proceeding.

27 (gg) (1) Notwithstanding any other law, the
28 governing board may order that a meeting held solely for
29 the purpose of discussion or taking action on hospital
30 authority trade secrets, which has the same meaning as
31 “health care facility trade secrets” as defined in
32 subdivision (c) of Section 32106, shall be held in closed
33 session. The requirements of making a public report of
34 actions taken in closed session and the vote or abstention
35 of every member present may be limited to a brief
36 general description devoid of the information
37 constituting the trade secret.

38 (2) The governing board may delete the portion or
39 portions containing trade secrets from any documents
40 that were finally approved in the closed session that are

1 *provided to persons who have made the timely or*
2 *standing request.*

3 *(3) Nothing in this section shall be construed as*
4 *preventing the governing board from meeting in closed*
5 *session as otherwise provided by law.*

6 *(hh) Open sessions of the hospital authority shall*
7 *constitute official proceedings authorized by law within*
8 *the meaning of Section 47 of the Civil Code. The*
9 *privileges set forth in that section with respect to official*
10 *proceedings shall apply to open sessions of the hospital*
11 *authority.*

12 *(ii) The hospital authority shall be a public agency for*
13 *purposes of eligibility with respect to grants and other*
14 *funding and loan guarantee programs. Contributions to*
15 *the hospital authority shall be tax deductible to the extent*
16 *permitted by state and federal law. Nonproprietary*
17 *income of the hospital authority shall be exempt from*
18 *state income taxation.*

19 *(jj) Contracts by and between the hospital authority*
20 *and the state and contracts by and between the hospital*
21 *authority and providers of health care, goods, or services*
22 *may be let on a nonbid basis and shall be exempt from*
23 *Chapter 2 (commencing with Section 10290) of Part 2 of*
24 *Division 2 of the Public Contract Code.*

25 *(kk) (1) Provisions of the Evidence Code, the*
26 *Government Code, including the Public Records Act*
27 *(Chapter 5 (commencing with Section 6250) of Division*
28 *7 of Title 1 of the Government Code), the Civil Code, the*
29 *Business and Professions Code, and other applicable law*
30 *pertaining to the confidentiality of peer review activities*
31 *of peer review bodies shall apply to the peer review*
32 *activities of the hospital authority. Peer review*
33 *proceedings shall constitute an official proceeding*
34 *authorized by law within the meaning of Section 47 of the*
35 *Civil Code and those privileges set forth in that section*
36 *with respect to official proceedings shall apply to peer*
37 *review proceedings of the hospital authority. If the*
38 *hospital authority is required by law or contractual*
39 *obligation to submit to the state or federal government*
40 *peer review information or information relevant to the*

1 *credentialing of a participating provider; that submission*
2 *shall not constitute a waiver of confidentiality. The laws*
3 *pertaining to the confidentiality of peer review activities*
4 *shall be together construed as extending, to the extent*
5 *permitted by law, the maximum degree of protection of*
6 *confidentiality.*

7 *(2) Notwithstanding any other law, Section 1461 shall*
8 *apply to hearings on the reports of hospital medical audit*
9 *or quality assurance committees as they relate to network*
10 *providers or applicants.*

11 *(ll) The hospital authority shall carry general liability*
12 *insurance to the extent sufficient to cover its activities.*

13 *(mm) In the event the board of supervisors*
14 *determines that the hospital authority should no longer*
15 *function for the purposes as set forth in this chapter, the*
16 *board of supervisors may, by ordinance, terminate the*
17 *activities of the hospital authority and expire the hospital*
18 *authority as an entity.*

19 *(nn) A hospital authority which is created pursuant to*
20 *this section but which does not obtain the administration,*
21 *management, or control of the medical center or which*
22 *has those duties and responsibilities revoked by the board*
23 *of supervisors shall not be empowered with the powers*
24 *enumerated in this section.*

25 *(oo) The establishment of a hospital authority under*
26 *Article 2.7 (commencing with Section 14087.3) of the*
27 *Welfare and Institutions Code shall be valid as if*
28 *established pursuant to this section and this section shall*
29 *apply to that hospital authority.*

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**All matter omitted in this version of the
bill appears in the bill as introduced in the
Assembly, February 16, 1996 (JR 11)**